

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Charles C. Jenkins, #275218,)
Plaintiff,) C/A No. 9:08-2092-MBS
vs.)
Sgt. Porter McKnight,)
Defendant.)

)

O R D E R

At the time of the underlying complaint, Plaintiff Charles C. Jenkins was an inmate in custody of the South Carolina Department of Corrections. Plaintiff, proceeding pro se, filed the within on June 3, 2008 pursuant to 42 U.S.C. § 1983, asserting that his constitutional rights had been violated in various respects.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On December 12, 2008, the Magistrate Judge issued a Report and Recommendation in which he noted that Plaintiff had been advised by order filed June 17, 2008, of his responsibility to keep the court apprised of his current address, and that his failure to do so could result in dismissal of the case. The Magistrate Judge noted that on December 11, 2008, the envelope containing correspondence addressed to Plaintiff had been returned to the Clerk of Court marked “Undeliverable” and Released.” Accordingly, the Magistrate Judge recommended that the within action be dismissed pursuant to Fed. R. Civ. P. 41(b). The envelope containing Plaintiff’s copy of the Report and Recommendation was returned to the Clerk’s Office on December 23, 2008, marked “Released” and “Unknown.”

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within action is dismissed *with prejudice* pursuant to Rule 41(b) for failure to prosecute and/or failure to comply with the Magistrate Judge's order of June 17, 2008.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

January 7, 2009

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.